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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

iFINEX INC., BFXNA INC., BFXWW INC.,
and TETHER LIMITED,

Plaintiffs,

v.

WELLS FARGO & COMPANY and WELLS
FARGO BANK, N.A.,

Defendants.

No. 17 Civ. 1882

**DECLARATION OF J.L. VAN DER
VELDE IN SUPPORT OF *EX PARTE*
APPLICATION FOR TEMPORARY
RESTRAINING ORDER AND ORDER
TO SHOW CAUSE WHY
PRELIMINARY INJUNCTION
SHOULD NOT ISSUE**

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DECLARATION OF J.L. VAN DER VELDE

I, J.L. van der Velde, hereby declare as follows:

1. I am the Chief Executive Officer for iFinex Inc. (“iFinex”), BFXNA Inc. (“BFXNA”), BFXWW Inc. (“BFXWW”), and Tether Limited (“Tether”). I have personal knowledge of the facts set forth below, and if called and sworn as a witness, I could and would testify competently thereto.

2. iFinex, through its subsidiaries BFXNA and BFXWW, owns and operates a leading global Virtual Currency platform called Bitfinex.¹

3. iFinex, BFXNA, BFXWW, and Tether Limited (“Tether”) are the plaintiffs in this action.

4. Bitfinex provides a digital platform for customers (both business and individuals) to engage in the trade of Virtual Currency using U.S. dollars and other Virtual Currencies.

5. Tether is a financial technology company that operates a platform to store, send, and make purchases with a form of digital currency – digital tokens called tethers – that are fully backed by U.S. dollars on deposit from customers.

6. Tethers may be redeemed or exchanged for the underlying U.S. dollars.

7. Virtual Currency can be stored or spent in a “digital wallet,” which allows users to send, receive, or transfer Virtual Currency.

8. Participants in the digital currency economy must first obtain Virtual Currency from a third party, which is often done through a digital currency platform such as Bitfinex.

9. Before using the Bitfinex or Tether platforms, customers must enter into a contract with Bitfinex or Tether, agreeing to their terms of service, which are publicly available on plaintiffs’ respective websites at <https://www.bitfinex.com/terms> and <https://tether.to/legal/>. (See Exs. 1 and 2 attached hereto.)

10. Customers using U.S. dollars also must subject themselves to extensive due diligence procedures.

¹ All capitalized terms have the same meaning as set forth in the Complaint.

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11. Plaintiffs also have in place standards to monitor transactions, assess risks, and file Suspicious Activity Reports (SARs) and other reports required by U.S. law.

12. Customers who want to purchase Virtual Currency through Bitfinex must deposit U.S. dollars or tethers into their Bitfinex account and in exchange receive an equivalent amount of Virtual Currency until they ask Bitfinex to remit back the U.S. dollars they deposited. Likewise, customers who want to purchase tethers through Tether must deposit U.S. dollars in their Tether account and in exchange receive an equivalent amount of tethers until they ask Tether to remit back the U.S. dollars they deposited.

13. Currently, Bitfinex has Virtual Currency equal to approximately \$430 million U.S. dollars and its customer deposits in banks in Taiwan equal to approximately \$130 million U.S. dollars. Tether has \$50 million in customer deposits in banks in Taiwan.

14. For these systems to work, customers depend on Bitfinex's and Tether's ability to send back to them the U.S. dollars they deposited with Bitfinex or Tether.

15. This concept is similar to a customer of a U.S. financial institution having access to her money from a branch, on demand, and 24/7 through an ATM, except that unlike U.S. financial institutions, plaintiffs must, and do, make available every dollar of customers' deposits, provided that correspondent banks process their transactions.

16. Plaintiffs hold or have held customers' deposits in accounts at one of four Taiwan-Based Banks: Hwatai Commercial Bank, KGI Bank, First Commercial Bank and Taishin Bank (collectively, the "Taiwan-Based Banks").

17. Upon information and belief, these Taiwan-Based Banks conduct business on plaintiffs' behalf pursuant to correspondent bank agreements that the Taiwan-based banks have with U.S. financial institutions, such as defendants Wells Fargo & Company and Wells Fargo Bank, N.A.

18. However, plaintiffs are not direct customers of the U.S. banks.

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19. Wells Fargo is a correspondent bank to the Taiwan-Based Banks.

20. Plaintiffs rely on the Taiwan-Based Banks to make and receive wire transfers with and through correspondent banks to obtain and transmit value for their customers in U.S. dollars, *e.g.*, to fulfill customers' demands to convert virtual currency back into U.S. dollars, settle accounts, and for plaintiffs to pay their employees and suppliers, including some of Wells Fargo's own customers.

21. Upon information and belief, for more than two years, the Taiwan-Based Banks have conducted both ingoing and outgoing wire transfers in U.S. dollars with and through Wells Fargo on accounts listing Bitfinex and Tether and their customers as beneficiaries.

22. Upon information and belief, throughout the latter half of March 2017, Wells Fargo informed the Taiwan-Based Banks that it would no longer service outgoing wire transfers on plaintiffs' correspondent accounts that plaintiffs rely on to fulfill requests to remit U.S. dollars to customers, without further due diligence concerning these accounts.

23. Taishin was the last of the Taiwan-Based Banks processing wires for and on behalf of the plaintiffs through Wells Fargo. On Friday, March 31, 2017, near the close of business in Taiwan, Taishin confirmed to Bitfinex that Wells Fargo would no longer process the plaintiffs' wires as a correspondent bank for Taishin Bank.

24. Crucially, this decision has affected only outgoing wire transfers. Without explanation, Wells Fargo has continued to process incoming wire transfers, at least nine since March 31, 2017, to plaintiffs' correspondent accounts.

25. Based on my understanding of bank due diligence processes, I would be very surprised to learn that Wells Fargo was not aware of the nature of plaintiffs' businesses for years and that it has processed outgoing wire transfers with plaintiffs' Taiwan-Based Banks prior to late-March 2017.

26. Wells Fargo's conduct will cause irreparable harm to plaintiffs by substantially interfering with their ability to process efficiently requests from customers of their U.S. dollars deposited with plaintiffs, in much the same way that Wells Fargo itself would be irreparably

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1 harmed if a third party precluded it from dispensing cash to customers at local bank branches or
2 ATMS.

3 27. Indeed, because the only money received from and sent to customers is U.S.
4 dollars, Wells Fargo's decision will completely cripple plaintiffs' ability to process worldwide
5 customers' requests to transfer U.S. dollars that belong to them, and will bring plaintiffs'
6 business to a standstill.

7 28. Plaintiffs' inability to transfer U.S. dollars to their customers almost certainly will
8 undermine plaintiffs' reputation and customer goodwill, resulting in the loss of both current and
9 prospective customers.

10 29. If plaintiffs are not able to send timely to their customers the U.S. dollars that
11 belong to them, I believe customers will view the failure as plaintiffs' own wrongdoing or
12 inability to provide the requested currency and they will turn to plaintiffs' competitors, some of
13 which have lower due diligence standards than plaintiffs.

14 30. Wells Fargo has not provided any explanation to plaintiffs as to why it will no
15 longer process plaintiffs' outgoing wires through the Taiwan-Based Banks.

16 31. Plaintiffs have received no inquiry or request for information in respect of the
17 actions taken by Wells Fargo in March 2017. If any request had been made, plaintiffs would
18 have fully cooperated and responded to same. Plaintiffs have a long history of responding timely
19 to requests for information from the Taiwan-Based Banks and, indirectly, from any
20 correspondent banks.

21 32. Plaintiffs have repeatedly made themselves available to Wells Fargo to provide
22 any information necessary to alleviate any concerns Wells Fargo may have about the
23 transactions. But Wells Fargo has refused to speak directly with plaintiffs.

24 I declare under penalty of perjury under the laws of the United States that the foregoing is
25 true and correct.

26 Executed this 5 day of April, 2017.

27 DATED: April 5, 2017

28 
J.L. van der Velde

Exhibit 1

Terms of Service

Thank you for choosing Bitfinex.com (the **"Site"**). The following terms and conditions of service (these **"Terms of Service"**) apply to customers of the Site. Some of these Terms of Service will apply only to U.S. Persons (as defined below) using the Site. Others apply to all users of the Site. You should read these Terms of Service carefully to determine which provisions apply to you. By using any of the services, functions, or features offered from time to time on the Site (collectively or individually, the **"Services"**), the customer (referred to herein as **"you"** or **"your"**) agrees to these Terms of Service.

These Terms of Service constitute the agreement and understanding with respect to the use of any or all of the Services, and any manner of accessing them, between: you and one of the following parties:

- a) where you are a U.S. Person, BFXNA Inc. (**"BFXNA"**); and,
- b) where you are not a U.S. Person, BFXWW Inc. (**"BFXWW"**).

Important: Please do not use any deposit addresses created before August 9, 2016 at 19:00:00 UTC to deposit any Digital Tokens to or on the Site. Use only addresses generated by and on the Site after August 9, 2016 at 19:00:00 UTC. Among other limitations of liability, Bitfinex cannot and shall not be responsible or liable for any deposits to any old wallet addresses.

For the avoidance of doubt, these Terms of Service have three parties: you and either BFXWW or BFXNA. The following Site policies and pages are incorporated into these Terms of Service by reference: the [Privacy Policy](#); the [Risk Disclosure Statement](#); the [Anti-Spam Policy](#); and the [Law Enforcement Requests Policy](#). In the event of any inconsistency between these Terms of Service and any other pages or policies on the Site, these Terms of Service shall prevail.

By creating an account on the Site or by using any of the Services, you acknowledge that you have read, understand, and completely agree to these Terms of Service in effect from time to time. If you disagree with these Terms of Service or with any subsequent amendments, changes, or updates, you may not use any of the Services; your only recourse in the case of disagreement is to stop using all of the Services.

These Terms of Service may be amended, changed, or updated by Bitfinex at any time and without prior notice to you. You should check back often to confirm that your copy and understanding of these Terms of Service is current and correct. Your non-termination or continued use of any Services after the effective date of any amendments, changes, or updates constitutes your acceptance of these Terms of Service, as modified by such amendments, changes, or updates.

The use of the Site and any Services is void where prohibited by applicable law.

1. Interpretation:

- 1.1. Definitions: In these Terms of Service and all documents incorporated herein by reference, the following words have the following meanings unless otherwise indicated:

- 1.1.1. **"AML"** means anti-money laundering;
- 1.1.2. **"Associates"** means BFXWW, BFXNA, iFinex, and each and every one of their respective shareholders, subsidiaries, employees, contractors, agents, directors, officers, partners, affiliates, insurers, and attorneys;
- 1.1.3. **"BFXNA"** means BFXNA Inc.;

4. 1.1.4. **"BFXWW"** means BFXWW Inc.;
5. 1.1.5. **"Bitfinex"** means:
 1. 1.1.5.1. where you are a U.S. Person, BFXNA; and,
 2. 1.1.5.2. where you are not a U.S. Person, BFXWW;
6. 1.1.6. **"Bitfinex Marks"** has the meaning set out in paragraph 13 of these Terms of Service;
7. 1.1.7. **"CTF"** means counter-terrorist financing;
8. 1.1.8. **"Digital Tokens"** means blockchain-based assets or rights, or other similar digital representations of rights or assets, including bitcoins, Litecoins, and ethers;
9. 1.1.9. **"FATF"** means the Financial Action Task Force;
10. 1.1.10. **"Financing Order Book"** has the meaning set out in paragraph 3 of these Terms of Service;
11. 1.1.11. **"Financing Provider"** means any provider of financing from and on her own account on the Site;
12. 1.1.12. **"Financing Recipient"** means any recipient of financing from a Financing Provider on the Site;
13. 1.1.13. **"iFinex"** means iFinex Inc.;
14. 1.1.14. **"Lien"** has the meaning set out in paragraph 5 of these Terms of Service;
15. 1.1.15. **"Losses"** has the meaning set out in paragraph 17 of these Terms of Service;
16. 1.1.16. **"Person"** includes an individual, association, partnership, corporation, other body corporate, trust, and any form of legal organization or entity;
17. 1.1.17. **"Personal Information"** means information about an identifiable individual, business, organization, or other entity, but does not include the name, title, business address, or telephone number of an employee of a business, organization, or other entity;
18. 1.1.18. **"Prohibited Use"** has the meaning set out in paragraph 11 of these Terms of Service;
19. 1.1.19. **"Service"** means any of the services, functions, or features offered on the Site;
20. 1.1.20. **"Site"** means the Internet website www.bitfinex.com;
21. 1.1.21. **"Terms of Service"** means these terms and conditions of service, as they may be changed, amended, or updated from time to time, including the following Site policies and pages: the [Privacy Policy](#); the [Risk Disclosure Statement](#); the [Anti-Spam Policy](#); and, the [Law Enforcement Requests Policy](#);
22. 1.1.22. **"Trading Order Book"** has the meaning set out in paragraph 3 of these Terms of Service;
23. 1.1.23. **"U.S. Person"** means:
 1. 1.1.23.1. in the case of an individual, a Person resident in the United States; and,
 2. 1.1.23.2. in any other case,
 1. 1.1.23.2.1. a Person resident in the United States; or,
 2. 1.1.23.2.2. a Person owned 10% or more by one or more Persons resident in the United States or by one or more corporations or entities incorporated in or formed in the United States; and,

24. 1.1.24 "you" or "your" means the customer.

2. 1.2 Headings: The headings and subheadings in these Terms of Service are for ease of reference only and are not to be taken into account in the construction or interpretation of any provision or provisions to which they refer.
3. 1.3 Extended Meanings: Unless otherwise specified in these Terms of Service, words importing the singular include the plural and vice versa and words importing gender include all genders.
4. 1.4 Governing Law: These Terms of Service shall be governed by and construed and enforced in accordance with the laws of the British Virgin Islands, and shall be interpreted in all respects as a British Virgin Islands contract. Any claim or action arising from or related to these Terms of Service shall be governed by and construed and enforced in accordance with the laws of the British Virgin Islands. For the avoidance of doubt, and without limiting the generality of the foregoing, this provision expressly applies to any tort claim against Bitfinex. The venue and forum for any claim or action against or involving Bitfinex shall be in the British Virgin Islands. You unconditionally attorn to the exclusive jurisdiction of the courts of the British Virgin Islands and all courts competent to hear appeals therefrom. You also unconditionally agree to the exclusive forum and venue of the British Virgin Islands in all claims or actions arising from or any dispute or question of any kind relating to these Terms of Service. The doctrine of forum non conveniens shall not apply in the selection of forum under these Terms of Service.

2. 2. Licence to Use the Site: If you comply with these Terms of Service, Bitfinex grants you the limited right to use the Site and the Services. The right to use the Site and the Services is a non-exclusive, non-transferable, revocable, limited licence, and it is subject to the limitations and obligations in these Terms of Service. Nothing in these Terms of Service gives you any licence (other than as set out in this paragraph), right, title, or ownership of, in, or to the Site or any of the Services.
3. 3

Trading & Financing Activities: The Site is a trading environment for the spot purchase and sale of Digital Tokens. The Site permits both unfinanced and financed transactions. Unfinanced purchases are fully funded by trading participants through funds deposited by you. For example, if you deposit \$100.00 into your account on the Site, you may then purchase \$100.00 worth of bitcoins in an unfinanced transaction. Purchases and sales of bitcoins on the Site, whether in an unfinanced transaction or a financed transaction, are settled by actual delivery of the full amount of the bitcoins or other Digital Tokens by the seller to the purchaser's account against payment in full by the purchaser to the seller's account.

Important: Financing is not allowed where prohibited by applicable law. U.S. Persons may not be Financing Recipients on the Site. Furthermore, New York and Washington state residents are prohibited from depositing to, withdrawing from, or trading on the Site.

Financed transactions in Digital Tokens are permitted through the Site's platform-enabled, peer-to-peer financing functionality. Financing Providers may offer financing from and on their own account if they so choose. Financing Recipients may accept financing from Financing Providers for up to 70% of the value of a Digital Token purchase. For example, if you deposit \$30.00 to the Site, you may then obtain financing in an amount not exceeding \$70.00 in order to buy \$100.00 worth of bitcoins in a financed transaction. In other words, you may accept financing equal to a maximum total bitcoins-to-equity ratio of 3 1/3 to 1.

Shorting is another type of financed transaction permitted on the Site's platform. In a typical 'long sale' of bitcoin, the seller enters into a regular spot trade of bitcoin and settles the transaction by delivering bitcoin that the seller owns outright. In a 'short sale' of bitcoin, the seller also enters into a regular spot sale of bitcoin, except that the transaction is settled by delivering bitcoin that the seller has borrowed.

Digital Tokens can be borrowed for purposes of short sales through the platform's peer-to-peer financing functionality. The bitcoin borrower may seek offers or make a bid to borrow Digital Tokens on the Financing Order Book. Bitcoin borrowers are not permitted to borrow more than 70% of the bitcoins sold in a short sale. The fiat proceeds of any short sale serve as collateral for the borrowing of the bitcoins until those bitcoins are repaid.

Bitfinex allows trading participants to use third party peer-to-peer financing from other participants on the platform to trade Digital Tokens. Financing Recipients may obtain financing in one of two general ways: they may place bids for financing on the Site's separate, peer-to-peer financing order book (the "**Financing Order Book**"); or, they may elect to be automatically matched through the Site's order matching engine with one or more Financing Providers on the Financing Order Book at the best prevailing price on the Financing Order Book. Although Bitfinex is not a party to these financing contracts, Bitfinex enforces the contracts established between Financing Providers and Financing Recipients on the Financing Order Book.

The Financing Order Book operates independent of the spot contract trading order book (the "**Trading Order Book**"). Once the desired financing is secured by a Financing Recipient, both financed and unfinanced transactions on the Trading Order Book are indistinguishable from each other to the trade matching engine.

The amount of the financing, the terms of the financing, and the interest rate are all commercial terms negotiated through the Financing Order Book between Financing Providers and Financing Recipients. For instance, assume that A has \$30.00 (in dollars) in her account on the Site. A obtains \$70.00 in financing at X interest rate for Y term on the Financing Order Book (thereby becoming a Financing Recipient) from B, a Financing Provider. With that aggregate amount of \$100.00, A may purchase \$100.00 in bitcoins on the Trading Order Book from C, or from one or more other sellers. A has the right to repay the financing (including any accrued interest) at any time without pre-payment or other penalty. Obtaining financing does not create any obligation to purchase bitcoins on the Trading Order Book. A may also replace financing from B at any time with more favorable financing.

In the above example, the bitcoins purchased by A (for \$100.00) are subject to a Lien in favor of B up to the total amount of financing secured from B (\$70.00 plus any interest component). A may remove any amount of bitcoins from the Site that is not subject to the Lien. If the Financing Recipient's equity falls to or below 15%—calculated as the quotient (expressed as a percentage) obtained by dividing (a) the excess of (i) the market value of the purchased bitcoins over (ii) the total principal amount (plus accrued and unpaid interest) relating to all financing outstanding by (b) the market value used in (a)(i), above—Bitfinex will force the liquidation of the bitcoins in A's account without notice to A, return financing to the Financing Provider, with accrued interest, and return the balance to the Financing Recipient. Bitfinex does not make margin calls. For example, if the purchased bitcoins' value falls from \$100.00 to \$82.35, the difference between that value and the financing obtained by A would be \$82.35 – \$70.00, or \$12.35. Taken as a percentage of the bitcoins' value, \$12.35/\$82.35 equals 15%. In other words, if the value of the bitcoins fell to \$82.35 in aggregate, A's bitcoins would be liquidated by Bitfinex on the Trading Order Book, B would be repaid, and any remaining difference (\$12.35, exclusive of interest) would be A's to retain.

By contrast, if the market value of bitcoins rises, A may sell her bitcoins and repay the loan. For example, assume the value of A's bitcoins rises to \$115.00. Now the difference between the bitcoins' value and the financing is \$115.00 – \$70.00, or \$45.00. Taken as a percentage of the value of the bitcoins, \$45.00/\$115.00 equals approximately 39%. Accordingly, A could remove part of her equity, but may not fall below her initial equity requirement. A could also sell the bitcoins on the Trading Order Book, repay the financing to B (plus any interest), and retain the balance on the transaction.

Alternatively, A could satisfy the Lien and unencumber the bitcoins by repaying the financing used to purchase the bitcoins. Unencumbering the bitcoins simply refers to the process of using some combination of unrealized gain or additionally deposited funds, or both, for the purposes of paying off the financing and

removing the Lien. In the above example, A could deploy the unrealized gain of \$15.00 to partially unencumber the bitcoins owned by her, thereby reducing the financed amount outstanding to B.

You can use the trading features of the Trading Order Book through your 'Exchange Wallet.' You may access the Funding Order Book through your 'Trading Wallet.' You may deposit funds to Bitfinex using your 'Deposit Wallet.'

4. 4

Risks and Limitation of Liability: **Important:** This paragraph is in addition to the the [Risk Disclosure Statement](#). Trading markets are volatile and shift quickly in terms of liquidity, market depth, and trading dynamics. You are solely responsible and liable: for any and all trading and non-trading activity on the Site and for your account on the Site; and, for knowing the true status of any position or contract with any other party on the Site, even if presented incorrectly by the Site at any time. You acknowledge and agree: to be fully responsible and liable for your trading and non-trading actions and inactions on the Site and all gains and losses sustained from your use of the Site and any of the Services; to be responsible for any negative balance in your account(s) on the Site; to be fully responsible and liable for all of your obligations with respect to any financing activities on the Site; and, to be fully responsible for safeguarding access to, and any information provided through, the Site and any of the Services, including, but not limited to, private keys, usernames, passwords, and bank account details.

There is no guarantee against losses on the Site. You may lose more than is in your various wallets on the Site if you engage in financing on the Site or if there is a force majeure event. When financing is used for trading, the loan carries risk if, among other things, the value of your Digital Tokens drops. If the value of your Digital Tokens drops below a certain level, you are responsible for responding to this market circumstance with cash or additional Digital Tokens satisfactory to Bitfinex. Failure to respond can result in the forced-liquidation of Digital Tokens in your account. Bitfinex cannot guarantee to stop losses even with the ability to force-liquidate any of your positions (due to, for example, market volatility and liquidity). Bitfinex will not be and is not responsible for any Financing Provider losing funds or Digital Tokens to any Financing Recipient on the Site or for any losses incurred by a Financing Recipient or any other party on the Site.

5. 5Agency: Bitfinex does not act as principal, counterparty, or market-maker in the transactions effected through trading on Bitfinex or in providing financing for financed trading on Bitfinex. However, Bitfinex administers and enforces contracts among parties engaged in financing activities on the Site. You hereby irrevocably appoint Bitfinex to act as your exclusive agent in respect of any contract on the Site in which you are a Financing Recipient. Specifically, you hereby grant Bitfinex agency, and you authorize and instruct Bitfinex: to implement, levy, monitor, and maintain a lien on all fiat amounts and Digital Tokens in your name or control on the Site in favor of one or more Financing Providers (a “**Lien**”); and, to liquidate any Digital Tokens in your name or control on the Site if necessary to ensure that any Financing Provider on the Site from whom you have obtained financing is repaid in full.
6. 6Satisfaction of Liens: If and when you seek to remove all of your Digital Tokens and funds from Bitfinex and there is a Lien outstanding against any of your funds or Digital Tokens, Bitfinex may satisfy the Lien.
7. 7Liquidations & Losses: If the value of your Digital Tokens drops below a certain level, this may result in one of two actions taken by Bitfinex. First, Bitfinex at all times reserves the right to force-liquidate the Digital Tokens in your account. Where this occurs, your Digital Tokens will be seized by Bitfinex and used to repay any outstanding amounts due to your Financing Providers. Second, where you have negative equity, or where Bitfinex determines in its sole discretion that, upon liquidation, you would likely have negative equity—that is, you fall below a certain maintenance requirement—in one or more or a combination of positions, Bitfinex reserves the right to seize, take over, and assume all of your liabilities and collateral and to dispose of one or more of your positions, or to retain one or more of them, at a profit or loss, at Bitfinex’s risk and expense. Further to your responsibility for all trading and financing activity and inactivity on the Site, any action may be

taken by Bitfinex pursuant to this paragraph at any time with or without notice to you, in Bitfinex's sole discretion.

8. **8Inactivity Fee:** Where you have not traded on the Site or engaged in any funding activity on the Site for an uninterrupted period of one year, Bitfinex thereafter reserves the right to charge and obtain from you an inactivity fee of \$25.00 per year, with or without notice to you. This fee will be taken from the Digital Tokens and other property that you hold on the Site.
9. **9Abandoned Property:** Where you have not logged into your account on the Site for an uninterrupted period of two years, Bitfinex thereafter reserves the right to deem any and all property that you hold on the Site, including Digital Tokens, to be abandoned, with or without notice to you. If your property is abandoned, it will be dealt with in one of two ways. First, if you are an unverified customer, it will be immediately forfeited to and seized by Bitfinex. Second, if you are a verified customer, we will engage in a process to determine the abandoned property's owner (including successors-in-interest and next-of-kin). This process will be subject to servicing and administration fees to be levied on and collected out of the property by Bitfinex. Any amounts greater than our servicing and administration fees will be paid to the property's owner, when and if found.
10. **10No Class Proceedings:** You and Bitfinex agree that any party hereto may bring claims against the others only on an individual basis and not as a plaintiff or class member in any purported class or representative action or proceeding. No adjudicator may consolidate or join more than one person's or party's claims and may not otherwise preside over any form of a consolidated, representative, or class proceeding. Any relief awarded to any one Bitfinex user cannot and may not affect any other Bitfinex users.
11. **11Prohibited Uses:** You may not:
 1. 11.1use the Site or any Services in order to disguise the proceeds of, or to further, any breach of applicable laws or regulations, or to deal in any contraband Digital Tokens, funds, or proceeds;
 2. 11.2trade or obtain financing on the Site, or use any Services, with anything other than funds, keys, or Digital Tokens that have been legally obtained by you and that belong to you;
 3. 11.3use the Site or any Services to interfere with or subvert the rights or obligations of Bitfinex or the rights or obligations of any other Site customer or any other third party;
 4. 11.4trade using inaccurate information presented by the Site or by Bitfinex or take advantage of any technical glitch, malfunction, failure, delay, default, or security breach;
 5. 11.5use the Site or any Services to engage in conduct that is detrimental to Bitfinex or to any other Site customer or any other third party;
 6. 11.6falsify any account registration details provided to Bitfinex;
 7. 11.7falsify or materially omit any information or provide misleading information requested by Bitfinex, including at registration;
 8. 11.8reverse-engineer, decompile, or disassemble any software running on the Site;
 9. 11.9attempt to harm Bitfinex through your access to the Site or any Services, except that nothing in this subparagraph shall be construed as limiting your free speech rights under applicable law; or,
 10. 11.10violate these Terms of Service.

Any use as described in this paragraph shall constitute a **"Prohibited Use."** If Bitfinex determines that you have engaged in any Prohibited Use, Bitfinex may address such Prohibited Use through an appropriate sanction, in its sole and absolute discretion. Such sanction may include, but is not limited to, making a report to law enforcement or other authorities, confiscation of any funds or Digital Tokens that you have on the Site, and terminating your access to any Services. Bitfinex may, at its sole and absolute discretion, seize and hand over your property to law enforcement or other authorities where circumstances warrant.

12. **12Anti-Money Laundering and Counter-Terrorist Financing:** Bitfinex is committed to providing you with safe, compliant, and reputable Services. Accordingly, Bitfinex insists on a comprehensive and thorough customer due diligence process and implementation and ongoing analysis and reporting. This includes monitoring of and for suspicious transactions and mandatory reporting to international regulators. Bitfinex needs to keep certain information and documentation on file pursuant to applicable law and its contractual relationships, and Bitfinex hereby expressly reserves the right to keep such information and documentation. This will apply even when you terminate your relationship with Bitfinex or abandon your application to have an account with Bitfinex.

Bitfinex reserves the right to refuse registration to, or to bar transactions from or to, or terminate any relationship with, any customer for any reason (or for no reason) at any time. Without limiting the generality of the foregoing, this includes, but is not limited to, anyone from or in jurisdictions that do not meet international AML–CTF standards as set out by the FATF; anyone that is a Politically Exposed Person within the meaning of the FATF’s 40 Recommendations; or, anyone that fails to meet any customer due diligence standards, requests, or requirements of Bitfinex. In lieu of refusing registration, Bitfinex may perform enhanced customer due diligence procedures. At all times, you may be subject to enhanced customer due diligence procedures in your use of the Site and any Service.

13. **13Intellectual Property:** Bitfinex and the Bitfinex logos, trade names, word marks, and design marks (the **"Bitfinex Marks"**) are trademarks of iFinex. You agree not to appropriate, copy, display, or use the Bitfinex Marks or other content without express, prior, written permission to do so. Unless otherwise indicated, all materials on Bitfinex are © iFinex.
14. **14Your Representations & Warranties:** You represent and warrant to Bitfinex as follows:
1. 14.1that, if you are an individual customer, you are 18 years of age or older and that you have the capacity to contract under applicable law;
 2. 14.2that, if you are not an individual customer, you have the requisite power and authority to sign and enter into binding agreements for and on behalf of the customer;
 3. 14.3that you will not use the Site or any Services in order to disguise the proceeds of, or to further, any breach of applicable laws or regulations, or to deal in any contraband Digital Tokens or proceeds;
 4. 14.4that you will not trade or obtain financing on the Site or use any Services with anything other than funds or Digital Tokens that have been legally obtained by you and that belong to you;
 5. 14.5that you will not falsify any account registration details provided to Bitfinex;
 6. 14.6that you will not falsify or materially omit any information or provide misleading information requested by Bitfinex in the course of, directly or indirectly relating to, or arising from your activities on the Site or use of any Services, including at registration;
 7. 14.7that any trading or other instructions received or undertaken through your login credentials or from your authorized e-mail address on file with Bitfinex are deemed to be valid, binding, and conclusive, and that Bitfinex may act upon those instructions without any liability or responsibility attaching to it; and,
 8. 14.8that you will fairly and promptly report all income associated with your activity on the Site pursuant to applicable law and pay any and all taxes exigible thereon.
15. **15No Representations & Warranties by Bitfinex:** Bitfinex makes no representations, warranties, or guarantees to you of any kind. The Site and the Services are offered strictly on an as-is, where-is basis and, without limiting the generality of the foregoing, are offered without any representation as to merchantability or fitness for any particular purpose.
16. **16No Advice:** Bitfinex does not provide any investment advice or advice on trading techniques, models,

algorithms, or any other schemes.

17. **17Limitation of Liability & Release: Important:** Except as may be provided for in these Terms of Service, Bitfinex assumes no liability or responsibility for and shall have no liability or responsibility for any claim, application, loss, injury, delay, accident, cost, business interruption costs, or any other expenses (including, without limitation, attorneys' fees or the costs of any claim or suit), nor for any incidental, direct, indirect, general, special, punitive, exemplary, or consequential damages, loss of goodwill or business profits, work stoppage, data loss, computer failure or malfunction, or any and all other commercial losses (collectively, referred to herein as "**Losses**") directly or indirectly arising out of or related to:
 1. 17.1these Terms of Service;
 2. 17.2the Site, and your use of it;
 3. 17.3the Services, and your use of any of them;
 4. 17.4the real or perceived value of any currencies or Digital Tokens traded on the Site, or the price of any Digital Token displayed on the Site at any time;
 5. 17.5any inaccurate, misleading, or incomplete statement by Bitfinex or on the Site regarding your account, whether caused by Bitfinex's negligence or otherwise;
 6. 17.6any failure, delay, malfunction, interruption, or decision (including any decision by Bitfinex to vary or interfere with your rights) by Bitfinex in operating the Site or providing any Service;
 7. 17.7any stolen, lost, or unauthorized use of your account information any breach of security or data breach related to your account information, or any criminal or other third party act affecting Bitfinex or any Associate; or,
 8. 17.8any offer, representation, suggestion, statement, or claim made about Bitfinex, the Site, or any Service by any Associate.

You hereby agree to release the Associates from liability for any and all Losses, and you shall indemnify and save and hold the Associates harmless from and against all Losses. The foregoing limitations of liability shall apply whether the alleged liability or Losses are based on contract, negligence, tort, unjust enrichment, strict liability, or any other basis, even if the Associates have been advised of or should have known of the possibility of such losses and damages, and without regard to the success or effectiveness of any other remedies.

18. **18No Waiver:** Any failure by Bitfinex to exercise any of its respective rights, powers, or remedies under these Terms of Service, or any delay by Bitfinex in doing so, does not constitute a waiver of any such right, power, or remedy. The single or partial exercise of any right, power, or remedy by Bitfinex does not prevent either from exercising any other rights, powers, or remedies.
19. **19Force Majeure:** Bitfinex is not responsible for damages caused by delay or failure to perform undertakings under these Terms of Service when the delay or failure is due to fires; strikes; floods; power outages or failures; acts of God or the state's enemies; lawful acts of public authorities; any and all market movements, shifts, or volatility; computer, server, or Internet malfunctions; security breaches or cyberattacks; criminal acts; delays or defaults caused by common carriers; acts or omissions of third parties; or, any other delays, defaults, failures or interruptions that cannot reasonably be foreseen or provided against. In the event of force majeure, Bitfinex is excused from any and all performance obligations and these Terms of Service shall be fully and conclusively at an end.
20. **20Assignment:** These Terms of Service, and any of the rights, duties, and obligations contained herein, are not assignable by you without prior written consent of Bitfinex. These Terms of Service, and any of the rights, duties, and obligations contained herein, are freely assignable by Bitfinex without notice or your consent. Any attempt by you to assign these Terms of Service without written consent is void.

21. 21 Severability: If any provision of these Terms of Service, as amended from time to time, is determined to be invalid, void, or unenforceable, in whole or in part, by any court of competent jurisdiction, such invalidity, voidness, or unenforceability attaches only to such provision and everything else in these Terms of Service continues in full force and effect.

FEATURES

Trading
Funding
Deposit
Withdraw
Manage Wallets

SUPPORT

Support Center

EXPLORE

Mobile App
Features
Market Statistics
Security
How it works
Our fees

UTILITY

API Keys
API Documentation
Full Order Book
Full Funding Book

NEWS & DISCUSSION

Announcements
Change Log
Twitter @bitfinex
Status Page
Blog

CONTACT

Contact Us
Careers 1

LEGAL

Terms of Service
BFX Token Terms
RRT Token Terms
CST Token Terms
Risk Disclosure Statement
Privacy Policy
Law Enforcement Request Policy
Anti-Spam Policy

LANGUAGE

English
русский
中文 (简化)
中文 (繁體)

Exhibit 2



[Terms of Service](#)

[Privacy Policy](#)

Last updated: June 16, 2016

Thank you for choosing Tether.to (the “**Site**”). The following terms and conditions of service (these “**Terms of Service**”) apply to customers of the Site. You should read these Terms of Service carefully. By using any of the services, functions, or features offered from time to time on the Site (collectively or individually, the “**Services**”), the customer (referred to herein as “**you**” or “**your**”) agrees to these Terms of Service.

These Terms of Service constitute the agreement and understanding with respect to the use of any or all of the Services, and any manner of accessing them, between you and Tether Limited (“**us**,” “**our**,” or “**we**”). For the avoidance of doubt, these Terms of Service have two parties: you and us.

By using the Services, you agree to these Terms of Service. All other policies, FAQs, whitepapers, and pages on the Site are incorporated into these Terms of Service by reference. In the event of any inconsistency between these Terms of Service and any other policies, FAQs, whitepapers, or pages on the Site, these Terms of Service shall prevail.

By creating an account on the Site or by using any of the Services, you acknowledge that you have read, understand, and completely agree to these Terms of Service in effect from time to time. If you disagree with these Terms of Service or with any subsequent amendments, changes, or updates, you may not use any of the Services; your only recourse in the case of disagreement is to stop using all of the Services and close your account(s) on the Site.

These Terms of Service may be amended, changed, or updated by us without prior notice to you. You should check back often to confirm that your copy and understanding of these Terms of Service is current and correct. Your non-termination or continued use of any Services after the effective date of any amendments, changes, or updates constitutes your acceptance of these Terms of Service, as modified by such amendments, changes, or updates.

The use of the Site or any Services is void where prohibited by applicable law.

1 INTERPRETATION:

1.1 DEFINITIONS: In these Terms of Service and all documents incorporated herein by reference, the following words have the following meanings unless otherwise indicated:

1.1.1 “**AML**” means anti-money laundering;

1.1.2 “**Associates**” means Tether Limited, Tether Holdings Limited, BFXNA Inc., iFinex Inc., and each and every one of their respective shareholders, subsidiaries, employees, contractors, agents, directors, officers, partners, affiliates, insurers, and attorneys;

1.1.3 “**CTF**” means counter-terrorist financing;

1.1.4 “**FATF**” means the Financial Action Task Force;

1.1.5 “**Losses**” has the meaning set out in paragraph 11 of these Terms of Service;

1.1.6 “**Prohibited Use**” has the meaning set out in paragraph 5 of these Terms of Service;

- 1.1.7 “**Service**” means any of the services, functions, or features offered on the Site;
- 1.1.8 “**Site**” means the Internet website www.tether.to;
- 1.1.9 “**Terms of Service**” means these terms of service, as they may be changed, amended, or updated from time to time, including any and all policies, FAQs, whitepapers, and pages on the Site;
- 1.1.10 “**Tethers**” means blockchain-based digital tokens called Tethers that are issued or redeemed by us;
- 1.1.11 “**Tether Marks**” has the meaning set out in paragraph 7 of these Terms of Service;
- 1.1.12 “**us**,” “**we**,” or “**our**” means Tether Limited; and,
- 1.1.13 “**you**” or “**your**” means the customer.

1.2 HEADINGS: The headings and sub-headings in these Terms of Service are for ease of reference only and are not to be taken into account in the construction or interpretation of any provision or provisions to which they refer.

1.3 EXTENDED MEANINGS: Unless otherwise specified in these Terms of Service, words importing the singular include the plural and *vice versa* and words importing gender include all genders.

1.4 GOVERNING LAW: These Terms of Service shall be governed by and construed and enforced in accordance with the laws of the British Virgin Islands, and shall be interpreted in all respects as a British Virgin Islands contract. The venue for any claim or action against or involving us shall be in the British Virgin Islands. The doctrine of *forum non conveniens* shall not apply in the selection of forum under these Terms of Service.

2 LICENCE TO USE THE SITE: If you comply with these Terms of Service, we grant you the limited right to use the Site and the Services. The right to use the Site and the Services is a non-exclusive, non-transferable, revocable, limited licence, and it is subject to the limitations and obligations in these Terms of Service. Nothing in these Terms of Service gives you any licence (other than as set out in this paragraph), right, title, or ownership of, in, or to the Site or any of the Services.

3 PURCHASE AND REDEMPTION OF TETHERS: The Site is an environment for the purchase and redemption of Tethers. Once you have Tethers, you can trade them, keep them, or use them to pay persons that will accept your Tethers. However, Tethers are not money and are not monetary instruments. They are also not stored value or currency.

There is no contractual right or other right or legal claim against us to redeem or exchange your Tethers for money. We do not guarantee any right of redemption or exchange of Tethers by us for money. There is no guarantee against losses when you buy, trade, sell, or redeem Tethers.

- 4 NO CLASS PROCEEDINGS: You and we agree that any party hereto may bring claims against the other only on an individual basis and not as a plaintiff or class member in any purported class or representative action or proceeding. Unless the parties agree otherwise, any adjudicator of any claim—whether judicial or otherwise—may not consolidate or join more than one party's claims and may not otherwise preside over any form of a consolidated, representative, or class proceeding. Any adjudicator of any claim may award relief, including monetary, injunctive, and declaratory relief, only in favor of the party seeking relief, and only to the extent necessary to provide relief necessitated by that party's claim(s). Any relief awarded cannot affect other users of the Site or of any Services.
- 5 PROHIBITED USES: You may not:
 - 5.1 use the Site or any Services in order to disguise the proceeds of, or to further, any breach of applicable laws or regulations, or to deal in any contraband Tethers, other digital tokens, funds, or proceeds;
 - 5.2 use any funds or other value on the Site, or use any Services, with anything other than funds, keys, Tethers, or other digital tokens that have been legally obtained by you and that belong to you;
 - 5.3 use the Site or any Services to interfere with or subvert our rights or obligations or the rights or obligations of any other Site customer or any other third party;
 - 5.4 use the Site or any Services to engage in conduct that is detrimental to us or to any other Site customer or any other third party;
 - 5.5 falsify any account registration details provided to us;
 - 5.6 falsify or materially omit any information or provide misleading information requested by us in the course of, directly or indirectly relating to, or arising from your activities on the Site or the use of any Services, including at registration;
 - 5.7 reverse-engineer, decompile, or disassemble any software running on the Site; or,

5.8 attempt to harm us through your access to the Site or any Services, except that nothing in this subparagraph shall be construed as limiting your free speech rights under applicable law.

Any use as described in this paragraph shall constitute a “**Prohibited Use**.” If either we determine that you have engaged in any Prohibited Use, we may address such Prohibited Use through an appropriate sanction in our sole and absolute discretion. Such sanction may include, but is not limited to, making a report to law enforcement or other authorities and closing your account(s) on the Site.

6 ANTI-MONEY LAUNDERING AND COUNTER-TERRORIST FINANCING: We are committed to providing you with safe, compliant, and reputable Services. Accordingly, we insist on a comprehensive and thorough customer due diligence process and implementation and ongoing analysis and reporting. This includes monitoring of and for suspicious transactions and mandatory reporting to international regulators.

We reserve the right to refuse registration to, or to bar transactions from or to, anyone from or in jurisdictions that do not meet international AML-CTF standards as set out by the FATF; to anyone that is a Politically Exposed Person within the meaning of the FATF’s 40 Recommendations; or, that fails to meet any of our customer due diligence standards, requests, or requirements. In lieu of refusing registration, we may perform enhanced customer due diligence procedures. At all times, you may be subject to enhanced customer due diligence procedures in your use of the Site and any Service.

7 INTELLECTUAL PROPERTY: Tether, the Site, and the Tether logos, trade names, word marks, and design marks (the “**Tether Marks**”) are our trademarks. You agree not to copy, display, or use the Tether Marks or other content without express, prior, written permission to do so. Unless otherwise indicated, all materials on the Site are © Tether Limited.

8 YOUR REPRESENTATIONS & WARRANTIES: You represent and warrant to us as follows:

- 8.1 that you are 18 years of age or older (or that you are otherwise permitted to contract under applicable law);
- 8.2 that you will not use the Site or any Services in order to disguise the proceeds of, or to further, any breach of applicable laws or regulations, or to deal in any contraband Tethers, other digital tokens, or proceeds;
- 8.3 that you will not employ the Site or use any Services with anything other than funds, Tethers, or other digital tokens that have been legally obtained by you and that belong to you;

- 8.4 that you will not falsify any account registration details provided to us;
 - 8.5 that you will not falsify or materially omit any information or provide misleading information requested by us in the course of, directly or indirectly relating to, or arising from your activities on the Site or use of any Services, including at registration; and,
 - 8.6 that you will fairly and promptly report all income associated with your activity on the Site pursuant to applicable law and pay any and all taxes exigible thereon.
- 9 NO REPRESENTATIONS & WARRANTIES: We make no representations, warranties, or guarantees to you of any kind, including with respect to any right of redemption or exchange of Tethers for any property. The Site and the Services are offered strictly on an as-is, where-is basis and, without limiting the generality of the foregoing, are offered without any representation as to merchantability or fitness for any particular purpose.
- 10 NO ADVICE: We do not provide any investment advice or advice on trading techniques, models, algorithms, or any other schemes.
- 11 LIMITATION OF LIABILITY & RELEASE: **Important:** Except as may be provided for in these Terms of Service, we assume no liability or responsibility for and shall have no liability or responsibility for any claim, application, loss, injury, delay, accident, cost, business interruption costs, or any other expenses (including, without limitation, attorneys' fees or the costs of any claim or suit), nor for any incidental, direct, indirect, general, special, punitive, exemplary, or consequential damages, loss of goodwill or business profits, work stoppage, data loss, computer failure or malfunction, or any and all other commercial losses (collectively, referred to herein as "**Losses**") directly or indirectly arising out of or related to:
- 11.1 these Terms of Service;
 - 11.2 the Site, and your use of it;
 - 11.3 the Services, and your use of any of them;
 - 11.4 the real or perceived value of any Tethers or of digital tokens, money, or any other property used to purchase Tethers;
 - 11.5 any failure, delay, malfunction, interruption, or decision by us in operating the Site or providing any Service;

11.6 any stolen, lost, or unauthorized use of your account information any breach of security or data breach related to your account information; or

11.7 any offer, representation, suggestion, statement, or claim made about us, the Site, or any Service by any Associate.

You hereby agree to release the Associates from liability for any and all Losses, and you shall indemnify and save and hold the Associates harmless from and against all Losses. The foregoing limitations of liability shall apply whether the alleged liability or Losses are based on contract, negligence, tort, unjust enrichment, strict liability, or any other basis, even if the Associates have been advised of or should have known of the possibility of such losses and damages, and without regard to the success or effectiveness of any other remedies.

Important: Notwithstanding anything else in these Terms of Service, in no event shall the combined aggregate liability of all Associates for any Loss hereunder exceed the amount of the amounts paid to us, if any, in fees in the transaction giving rise, or alleged to give rise, to the Loss. You shall indemnify and hold the Associates harmless from any Losses in excess of such amount.

- 12 NO WAIVER: Any failure by us to exercise any of our rights, powers, or remedies under these Terms of Service, or any delay by us in doing so, does not constitute a waiver of any such right, power, or remedy. The single or partial exercise of any right, power, or remedy by us does not prevent either from exercising any other rights, powers, or remedies.
- 13 FORCE MAJEURE: We are not responsible for damages caused by delay or failure to perform undertakings under these Terms of Service when the delay or failure is due to fires; strikes; floods; power outages or failures; acts of God or the state's enemies; lawful acts of public authorities; any and all market movements, shifts, or volatility; computer, server, or Internet malfunctions; delays or defaults caused by common carriers; acts or omissions of third parties; or, any other delays, defaults, failures or interruptions that cannot reasonably be foreseen or provided against. In the event of force majeure, we are excused from any and all performance obligations.
- 14 ASSIGNMENT: These Terms of Service, and any of the rights, duties, and obligations contained herein, are not assignable by you without our prior written consent. These Terms of Service, and any of the rights, duties, and obligations contained herein, are freely assignable by us without notice or your consent. Any attempt by you to assign these Terms of Service without written consent is void.

- 15 SEVERABILITY: If any provision of these Terms of Service, as amended from time to time, is determined to be invalid, void, or unenforceable, in whole or in part, by any court of competent jurisdiction, such invalidity, voidness, or unenforceability attaches only to such provision and everything else in these Terms of Service continues in full force and effect.